

BEFORE THE BOARD OF ETHICS

COUNTY OF HAWAI'I

In the Matter of the Petition by

Mark Van Pernis,

Petitioner.

PETITION NO. 2023-01

ORDER DISMISSING PETITION

Initial Review: February 15, 2023

ORDER DISMISSING PETITION

By Petition dated December 22, 2022, with the Hawai'i County Board of Ethics (hereinafter "the Board"), Petitioner Mark Van Pernis (hereinafter referred to as "Petitioner") alleged that the following officers of the County of Hawai'i, Hawaii County Planning Director Zendo Kern and Deputy Planning Director Jeffery Darrow (hereinafter collectively referred to as "Respondents") violated Hawai'i County Code § 2-83 Fair Treatment and § 2-84 Conflict of Interest. Petitioner's complaint focused on Respondent's alleged failures to respond to a perceived conflict of interest in that Planning Director Zendo Kern and/or the Planning Department were having communications with Mr. Kern's prior clients from his former employment as a private consultant.

At its duly noticed meeting of February 15, 2023, the Board reviewed and considered the above-captioned Petition pursuant to Rule 4 of the *Rules of Practice and Procedure of the Board of Ethics*. The Board listened to a public testifier supporting Petitioner's complaint against the Respondent. Petitioner appeared by videoconferencing via Zoom and provided his testimony to the Board. The Board also received and reviewed evidence submitted by the Petitioner. The Respondent Zendo Kern submitted a written response stating that the question before the Board had been previously decided in Informal Advisory Opinion for Petition 2020-08. Respondent

Zendo Kern was not available to appear for the hearing. Respondent Jeffery Darrow appeared in person, provided his testimony to the Board, as well as a written response. The Board received and reviewed written statements submitted by the Respondents.

On February 15, 2023, the Board having examined and weighed the record and files in this case and the evidence submitted by the Petitioner and Respondent, Board Member Denise Nakanishi moved to dismiss Petition 2023-01 because it had been decided in prior informal advisory opinion by the Board. Board member Christopher Ho seconded the motion. The Board, having examined and weighed the record and files in this case and the evidence submitted by the Petitioner, and having considered the relevant information presented as well as the Hawai'i County Charter, the Hawai'i County Code, and the Board's Rules of Practice and Procedure, unanimously approved the motion to dismiss Petition 2023-01 by a vote of 4-0.

ORDER

Based upon the foregoing, the Hawai'i County Board of Ethics orders that Petition No. 2023-01 is hereby dismissed.

Pursuant to Board Rule 4.9, the Order Dismissing the Petition shall be filed and a copy shall be sent to the Petitioner and Respondents.

Dated: Hilo, Hawai'i, MAR 29 2023

BOARD OF ETHICS, COUNTY OF HAWAI'I

By 
RACHEL SHORT
Board of Ethics Chair

APPROVED AS TO FORM
AND LEGALITY:


SYLVIA WAN
Deputy Corporation Counsel